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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/395,935	09/14/1999	HIROAKI KOSEKI	991014	6682

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP  
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EXAMINER

JERABEK, KELLY L

ART UNIT PAPER NUMBER

2612

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/395,935

Applicant(s)

KOSEKI ET AL.

Examiner

Kelly L. Jerabek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 13-28 is/are pending in the application.
- 4a) Of the above claim(s) 2-11, 13-21 and 28 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 is/are allowed.
- 6) ☒ Claim(s) 22-24, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 2-9, 13-21, and 28 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/13/2004.

### ***Response to Arguments***

Applicant's arguments filed 9/13/2004 with regard to claim 1 has been fully considered but it is not persuasive.

### **Response to Remarks:**

Applicant contends (Amendment, page 17) that newly amended claim 1 states "in the automatic wide dynamic range taking mode, a wide dynamic range, synthesized image is selectively generated automatically based on at least on an information set for the image taking among object information or information set for the image taking". Applicant states that this feature is different from the automatic SSC photographing disclosed by Anderson. The Examiner respectfully disagrees. Anderson discloses an image pickup apparatus in figure 3 capable of taking images of the same object at a plurality of different exposure amounts defined as Salient images. The Salient images

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are combined to generate a single image having a wide dynamic range. Anderson also discloses an image capture method shown in figures 11A and 11B comprising a mode control means (1402, 1406) for selecting between a normal image taking mode of generating image data from one frame, and a means of producing a wide dynamic image having proper exposure (1407) (col. 9, line 66 – col. 11, line 32). If the user selects a forced wide dynamic range-taking mode (manual SSC mode (1408)) the user may force a generation of a wide dynamic range synthesized image by selecting a salient still capture mode (1418) (col. 10, lines 61-67). The user also has the option of selecting an automatic wide dynamic range taking mode (SSC automatic mode (1407)) for selectively generating a wide dynamic range synthesized image automatically based on information set for the image taking (user presses soft keys (616) to set the capture mode) (col. 10, lines 1-10 and 29-40). **The Examiner is reading the pressing of soft keys (616) to set the capture mode as information set for the image taking.** Therefore, an automatic wide dynamic range taking mode (SSC automatic mode (1407)) selectively generates a wide dynamic range synthesized image automatically when a user presses soft keys (616) to set the SSC automatic mode.

Applicant's arguments with respect to claims 22-27 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 and 27 rejected under 35 U.S.C. 102(e) as being anticipated by  
Anderson US 6,177,958.**

Re claim 1, Anderson discloses an image pickup apparatus in figure 3 capable of taking images of the same object at a plurality of different exposure amounts defined as Salient images. The Salient images are combined to generate a single image having a wide dynamic range. Anderson also discloses an image capture method shown in figures 11A and 11B comprising a mode control means (1402, 1406) for selecting between a normal image taking mode of generating image data from one frame, and a means of producing a wide dynamic image having proper exposure (1407) (col. 9, line 66 – col. 11, line 32). If the user selects a forced wide dynamic range-taking mode (manual SSC mode (1408)) the user may force a generation of a wide dynamic range synthesized image by selecting a salient still capture mode (1418) or the user may capture a single image of one frame by selecting user override event (1419) (col. 10, line 61-col. 11, line 5). The user also has the option of selecting an automatic wide

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dynamic range taking mode (SSC automatic mode (1407)) for selectively generating a wide dynamic range synthesized image automatically based on information set for the image taking (user presses soft keys (616) to set the capture mode) (col. 10, lines 1-10 and 29-40). The Examiner is reading the pressing of soft keys (616) to set the capture mode as information set for the image taking. Therefore, an automatic wide dynamic range taking mode (SSC automatic mode (1407) selectively generates a wide dynamic range synthesized image automatically when a user presses soft keys (616) to set the SSC automatic mode. The soft keys (616) also serve as a means for selectively setting one image-taking mode corresponding to the control means (col. 10, lines 1-10, 29-35).

Re claim 27, Anderson states that the information set for image taking may be a taking mode setting information such as shutter speed (col. 8, lines 46-67).

**Claims 22-24 and 26-27 rejected under 35 U.S.C. 102(e) as being anticipated by Hatano US 2003/0133035.**

Re claim 22, Hatano discloses in figure 1 a camera (100) capable of taking images at a plurality of different exposure amounts to generate image signals corresponding to a plurality of frames of different exposure amounts and generating a wide dynamic range synthesized images by synthesizing image signals corresponding to a plurality of frames of different exposure amounts obtained by the image pickup means (page 1, paragraph 12, page 2, paragraphs 32-39). Hatano also discloses an

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automatic wide dynamic range taking control means (202,203,207) for automatically controlling ON/OFF of generation processing of a wide dynamic range, synthesized image by determining based on object information (motion vector) whether it is suitable for wide dynamic range image taking or not (page 3, paragraph 40).

Re claim 23, Hatano discloses a motion detecting section (203) for detecting motion in the object to be taken and ON/OFF of the generation processing of a wide dynamic range synthesized image is controlled based on the output of the motion detecting section (203) (page 3, paragraph 40).

Re claim 24, the motion detecting section (203) detects motion by comparing the motion vectors of each pixel of the different images to be synthesized (page 3, paragraph 40). The different images are sequentially picked up at different exposure amounts therefore, it can be seen that some images will have short-time exposure image data and some images will have long-time exposure data.

Re claim 26, Hatano states that a comparison circuit compares a threshold value with motion information to judge whether the motion of each pixel is caused by hand vibration (page 5, paragraphs 85-86). Therefore, it can be seen that the motion detecting section (203) is capable of detecting camera shake.

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Re claim 27, Hatano discloses a camera drive circuit (105) that can set an optimum shutter speed (information set for image taking) (page 3, paragraph 52).

***Allowable Subject Matter***

Claim 25 allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claim 25, the prior art of record fails to teach or suggest detecting motion in the object based on an AF signal from an AF circuit.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is **(571) 272-7312**. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

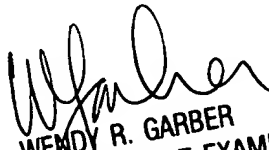


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on **(571) 272-7308**. The fax phone number for submitting all Official communications is 703-872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at **(571) 273-7312**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KLJ

  
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